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10 Medical Group, Inc.

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 UNITED STATES OF AMERICA
15 *ex rel.* IONM LLC, and *ex rel.* JUSTIN
16 CHEONGSIATMOY, M.D.; STATE
17 OF CALIFORNIA *ex rel.* IONM
18 LLC, and *ex rel.* JUSTIN
19 CHEONGSIATMOY,
20 M.D.; LOS ANGELES COUNTY *ex*
21 *rel.* IONM LLC, and *ex rel.* JUSTIN
22 CHEONGSIATMOY, M.D.; and
23 JUSTIN CHEONGSIATMOY,
24 M.D., in his individual capacity,

25 Plaintiff,

26 v.

27 UNIVERSITY OF SOUTHERN
28 CALIFORNIA, and USC CARE
MEDICAL GROUP, INC.,

Defendants.

CASE NO: 2: 18-cv-08311-WLH (ASx)

JUDGE: Hon. Wesley L. Hsu

**JOINT STATUS REPORT BY
DEFENDANTS UNIVERSITY OF
SOUTHERN CALIFORNIA AND USC
CARE MEDICAL GROUP, INC. AND
NON-PARTIES UNITED STATES OF
AMERICA AND STATE OF
CALIFORNIA**

Action Filed: September 26, 2018

Trial Date: None

1 **I. INTRODUCTION**

2 The United States of America (the “United States”) and the State of California
3 (“California”), as well as Defendants University of Southern California and USC
4 Care Medical Group, Inc. (“Defendants”) submit this Joint Status Report to notify
5 the Court that they have not received any indication that Justin Cheongsiatmoy,
6 M.D. and IONM LLC (“Relators”) have retained new counsel. Notwithstanding the
7 apparent failure of Relators to obtain new counsel, the Defendants and the United
8 States and California (collectively, the “Governments”)¹ believe that the interests of
9 justice would be best served by again continuing for an additional 60 days the Status
10 Conference regarding Relators’ legal representation (the “Representation Status
11 Conference”), which is presently scheduled to take place on May 9, 2025, and the
12 hearing on Defendant’s motion for partial summary judgment (the “Summary
13 Judgment Motion Hearing”) currently set for June 6, 2025. Dkt. 377.

14 The previous Status Report (Dkt. 376) indicated that the Governments needed
15 to obtain internal approvals authorizing them to seek leave to intervene for the
16 purposes of allowing the Relators the opportunity to present to the Court any
17 objections they may have regarding the settlement and/or to be heard regarding the
18 appropriate percentage of the settlement proceeds to be awarded to them. Since the
19 last Joint Status Report, the Governments have obtained these approvals and are
20 currently in negotiations with Defendants regarding specific terms to be included in
21 the formal settlement agreement. Continuing the Representation Status Conference
22 and the Summary Judgment Motion Hearing for an additional 60 days will allow
23 time for the Governments and Defendants to finalize and execute the settlement
24 agreement and for the Governments to then prepare and file the above-referenced
25 motion for leave to intervene. In addition, the requested continuance would relieve
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27 ¹ The Governments are not parties to this action but are instead real parties in interest.
28 *United States ex rel. Eisenstein v. City of New York*, 556 U.S. 928, 934-35 (2009).

1 the Court of having to issue rulings on the consequences of Relators' failure to obtain
2 new counsel and the pending summary judgment motion, both of which issues would
3 likely be mooted if the settlement agreements are approved by the Court.

4 Accordingly, the Governments and Defendants respectfully request
5 continuances of the Representation Status Conference and the Summary Judgment
6 Motion Hearing for an additional 60 days.

7 **II. STATEMENT OF FACTS**

8 As detailed in a prior December 27, 2024 Joint Status Report (Dkt. 372), on
9 July 11, 2024, the Desai Law Firm filed a motion to withdraw as local counsel. Dkt.
10 341. In its Statement of Interest ("SOI") filed on August 26, 2024 (Dkt. 353), the
11 United States pointed out that:

12 setting a reasonable deadline for relators to obtain new counsel in this
13 case would allow time for the United States to determine whether, given
14 the changed circumstances, it is appropriate to request leave to
15 intervene for good cause pursuant to 31 U.S.C. § 3730(c)(3) to facilitate
16 settlement negotiations. Such negotiations, if successful, would serve
17 the interests of judicial efficiency by effectively mooted the issue of
18 whether this action should be dismissed . . . based on relators' lack of
19 representation by an attorney.

20 *Id.* at 4:11-17 (footnotes omitted). At the time, the United States believed that 30
21 days would be a reasonable time to allow relators to obtain new counsel.² On August
22 27, 2024, the Court granted the motion of the Desai Law firm to withdraw as counsel
23 and *sua sponte* terminated the representation of Alice Chang as counsel due to her
24 inactive status. Dkt. 355. The Court also ordered Relators to appear in person at a
25 Representation Status Conference if they had not retained new counsel. The
26 Representation Status Conference was originally scheduled for October 4, 2024
27 (Dkt. 358) but after reviewing status reports filed by the Government and/or
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² Dkt. 353 at p. 4 n.2.

1 Defendants, the Court continued the Representation Status Conference to December
2 6, 2024, January 3, 2025, March 7, 2025, and then to the current date of May 9,
3 2025. Dkt. 369, 371, 373, 377. The Court also continued the Summary Judgment
4 Motion Hearing to December 6, 2024, January 17, 2025, April 4, 2025 and then to
5 the current date of June 6, 2025. Dkt. 369, 371, 373, 377. As of May 2, 2025,
6 Relators have not indicated that they have retained new counsel.

7 As noted in a prior Joint Status Report (Dkt. 372), significant progress has
8 been made towards resolution of this entire action through settlement. Specifically,
9 the California Department of Insurance finalized a settlement with Defendants,
10 intervened in this action and requested dismissal of all claims asserted under
11 California's Insurance Frauds Prevention Act, Cal. Ins. Code § 1871.7 ("IFPA").
12 This Court granted the Department of Insurance's request and dismissed the IFPA
13 claims on November 22, 2024. Dkt. 370. As noted in the most recent Status Report
14 (Dkt. 376), the Governments needed to obtain internal approvals authorizing them
15 to seek leave to intervene for the purpose of allowing the Relators the opportunity to
16 present to the Court any objections they may have regarding the settlement and/or
17 to be heard regarding the appropriate percentage of the settlement proceeds to be
18 awarded to them. Since the last Joint Status Report, the Governments have obtained
19 these approvals and are currently in negotiations with Defendants regarding the
20 specific terms to be included in the formal settlement agreement. Continuing the
21 Representation Status Conference and the Summary Judgment Motion Hearing for
22 an additional 60 days will allow time for the Governments and Defendants to finalize
23 and execute the settlement agreement. Once the settlement is finalized, the
24 Governments will then be able to prepare and file the above-referenced motion for
25 leave to intervene. The hearing on the motion to intervene will provide Relators with
26 a reasonable opportunity to object to the settlement and/or to be heard regarding the
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1 appropriate percentage of the settlement proceeds to be awarded to them.³
2 Accordingly, continuing the Representation Status Conference for an additional 60
3 days will allow sufficient time for the settlement agreements with the Governments
4 to be finalized and signed and thereafter reviewed by the Court together – rather than
5 separately – for the purpose of determining whether the settlements should be
6 approved, which is in the interest of judicial economy.

7 **III. THE COURT SHOULD CONTINUE THE REPRESENTATION**
8 **STATUS CONFERENCE AND SUMMARY JUDGMENT MOTION**
9 **HEARING**

10 For the following reasons, this Court should exercise its discretion to continue
11 the Status Conference Regarding Representation for an additional 60 days in the
12 interests of justice.⁴ First, as discussed above, and as set forth in the SOI, intervention
13 by the Governments for the purpose of settling this action will “effectively moot[]
14 the issue of whether this action should be dismissed . . . based on relators’ lack of
15 representation by an attorney.” Dkt. 353 at p. 4:14-17. Second, continuing the
16 Representation Status Conference again for a short period will allow the

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18 ³ The Federal False Claims Act and the California False Claims Act provide that the
19 government may settle a *qui tam* action notwithstanding the objections of the relator
20 if the Court determines, after a hearing, that the proposed settlement is fair, adequate,
21 and reasonable under all the circumstances. 31 U.S.C. § 3730(c)(2)(B); Cal. Gov’t
22 Code § 12652(e)(2)(B).

23 ⁴ In its SOI, the United States pointed out that in *United States ex rel. Lockhart v.*
24 *General Dynamics Corp.*, No. 4:04cv296-RH/WCS, 2008 WL 11350222 (N.D. Fla.
25 Feb. 19, 2008) the United States filed a SOI for the purpose of asserting that the
26 relator there could not proceed without representation. The court in *Lockhart* set a
27 deadline for relator to retain counsel and then extended that deadline. *Id.* at *1. The
28 SOI filed by the United States here also pointed out that Defendants’ *Ex Parte*
Application for Order Setting a Status Conference took the position that relators
should be allowed a “reasonable period of time” to retain counsel. Dkt. 352 at 4:11-
12. In light of cases such as *Lockhart* and under the circumstances, the Governments
and the Defendants agree that it would be reasonable for the Court to continue the
Representation Status Conference.

1 Governments and Defendants to finalize and execute the settlement agreements, a
2 process that cannot be completed by May 9, 2025, the date currently set for the
3 Representation Status Conference. Third, as discussed above, the Governments will
4 not be in a position to seek leave to intervene until the settlement agreements are
5 finalized and signed. Fourth, if the Representation Status Conference is continued,
6 the Relators will have an opportunity to object to the settlement agreement (and to
7 be heard regarding the appropriate share of the settlement proceeds to be awarded to
8 them), even if they are not represented by counsel. For example, in *United States ex*
9 *rel. Phillips-Minks v. Behavioral Healthcare Corp.* No. CV 98-1012 IEG (LAB) at
10 Dkt. 283 (S.D. Cal. July 27, 2001) (available on PACER), the United States sought
11 to intervene for the purpose of presenting a settlement to the court for approval. The
12 court granted the motion over the objection of the unrepresented relator, noting that
13 the relator would have “an opportunity to object [to the] settlement if she so
14 chooses.” *Id.* Dkt. 283 at p. 4:4-5.⁵

15 Since the Court’s approval of the settlement agreements would moot
16 Defendants’ pending motion for partial summary judgment, judicial economy also
17 supports a continuance of the Summary Judgment Motion Hearing currently set for
18 June 6, 2025 for an additional 60 days as well.

21 ⁵ A relator who is not an attorney is not qualified to represent the interests of the
22 United States. *See Stoner v. Santa Clara County Office of Education*, 502 F.3d 1116,
23 1126-27 (9th Cir. 2007). However, once the Governments have intervened in the
24 action for the purpose of effectuating a settlement, if Relators object to the settlement
25 or wish to be heard regarding the appropriate share of the settlement proceeds to be
26 awarded to them, cases such as *Stoner* may not apply because Relators are not then
27 representing the interests of the Governments. The corporate relator (IONM, LLC)
28 must still be represented by counsel (*In re America West Airlines*, 40 F.3d 1058,
1059 (9th Cir. 1994), but neither the Governments nor Defendants are aware that
IONM, LLC has any interests beyond those of the individual relator (Justin
Cheongsiatmoy, M.D.) in this case.

IV. CONCLUSION

For the foregoing reasons, the Governments and Defendants respectfully propose that the Court continue the Representation Status Conference currently scheduled for May 9, 2025 and the Summary Judgment Motion hearing currently set for June 6, 2025 for a period of 60 days.

Respectfully submitted,

Dated: May 2, 2025

LEECH TISHMAN NELSON HARDIMAN,
INC.

By: /s/ Mark Hardiman
Mark Hardiman

Attorneys for Defendants
University of Southern California and
USC Care Medical Group, Inc.

Dated: May 2, 2025

UNITED STATES ATTORNEY'S OFFICE

By: /s/ Frank Kortum

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of America

Dated: May 2, 2025

CALIFORNIA ATTORNEY GENERAL'S
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By: /s/ John Fisher
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California

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Attestation Pursuant to local Rule 5-4.3.4(a)(2)(i)

The undersigned attests that all signatories listed, and on whose behalf this filing is submitted, concur in the filing's content and have authorized the filing.

Dated: May 2, 2025

LEECH TISHMAN NELSON HARDIMAN,
INC.

By: /s/ Mark Hardiman
Mark Hardiman

Attorneys for Defendants
University of Southern California and
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